

Committee on Natural Resources

Rob Bishop Chairman
Mark-Up Memorandum

November 27, 2017

To: All Natural Resources Committee Members

From: Majority Committee Staff—Chris Esparza (x5-9297)
Subcommittee on Energy and Mineral Resources

Mark-Up: **H.R. 1778 (Rep. Liz Cheney, WY – At Large)**, To provide that an order by the Secretary of the Interior imposing a moratorium on Federal coal leasing shall not take effect unless a joint resolution of approval is enacted, and for other purposes.
November 29-30, 2017; 1324 Longworth HOB

Summary of the Bill

The bill provides that an order by the Secretary of the Interior imposing a moratorium on Federal coal leasing shall not take effect unless a joint resolution of approval is enacted by the United States Congress within 30 legislative days after the proposed order is received by Congress.

Cosponsors

Rep. Kevin Cramer (R-ND), Rep. Paul Gosar (R-AZ), Rep. David McKinley (R-WV), Rep. Keith Rothfus (R-PA), Rep. Evan Jenkins (R-WV)

Background

The Bureau of Land Management (BLM) administers coal leasing on all federal lands.¹ BLM currently administers 309 federal coal leases on about 474,000 acres on federal public domain lands.² All leasing is done competitively with the exception of cases in which a party holds a “prospecting permit” issued prior to the Federal Coal Leasing Amendments Act of 1976 or where contiguous acres are added to existing leases.³ This leasing process is governed by Section 2 of the Mineral Leasing Act.⁴

On January 16, 2016, then Secretary of the Interior Sally Jewell announced a moratorium on federal coal leasing for the purpose of examining the federal coal leasing program and to

¹ 30 U.S.C. § 181.; 43 U.S.C. § 1731.

² Michael Ratner, 21st Century U.S. Energy Sources: A Primer 21st Century U.S. Energy Sources: A Primer (2017), http://www.crs.gov/Reports/R44854?source=search&guid=06715c756d3641d48ca9283a44421216&index=7#_Toc483393813.

³ Marc Humphries, U.S. and World Coal Production, Federal Taxes, and Incentives (2013), http://www.crs.gov/Reports/R43011?source=search&guid=f392b2a0209d4720845e25fe7027cf7f&index=0#_Toc351629777.

⁴ 30 U.S.C. § 201.

determine whether it requires modernization.⁵ In the interim, the Secretary directed BLM to prepare a programmatic environmental impact statement (PEIS) of the leasing program as the basis for a review. Concerns raised throughout the review included whether the public was getting a fair market value for the sale of leases, coal mining operators lease modification abilities, and environmental pollution caused by coal's greenhouse gas emissions.⁶ Alternatively, opponents of the moratorium noted the major negative impacts the leasing moratorium would have on coal communities, coal and energy markets, and reclamation efforts.⁷

In the final days of the Obama administration, the Department of the Interior finalized a report calling for major changes to the federal coal program.⁸ Despite making final recommendations for the program that included charging a higher royalty rate to companies and taking greater note of environmental concerns, the report recommended continuing the moratorium for further analysis to be conducted.⁹ The report failed to note any negative impact the moratorium itself had on the U.S. coal industry.¹⁰ This year, U.S. coal production is projected to be down by over 25% as compared to 2014.¹¹ The negative impact is especially noteworthy for the state of Wyoming, which serves as the largest producer of coal in the United States.

Recent Events

On March 28, 2017, the Trump Administration issued an executive order lifting any and all moratoria on federal coal leasing.¹² Ending the moratorium is expected to provide greater certainty to the coal industry and coal miners.¹³ Despite ending the moratorium, Secretary of the Interior Zinke has vowed to continue researching royalty rates in an effort to continue the modernization review.¹⁴ Since ending the moratorium, the administration has faced lawsuits from environmentalists and public lands supporters.¹⁵

The House Natural Resources Subcommittee on Energy and Mineral Resources held a legislative hearing on H.R. 1778 on July 27, 2017.

Major Provisions

⁵ Dep't of the Interior Secretarial Order No. 3338, 81 FR 17720 (2016).

⁶ Marc Humphries, *The Federal Coal Leasing Moratorium* (2017), <http://www.crs.gov/Reports/IN10460?source=search&guid=f392b2a0209d4720845e25fe7027cf7f&index=1>.

⁷ *id.*

⁸ Bureau of Land Management, *Federal Coal Program: Programmatic Environmental Impact Statement—Scoping Report, Volumes I and II* (January 2017), https://eplanning.blm.gov/epl-front-office/projects/nepa/65353/95059/114965/CoalPEIS_RptsScoping_Vol1_508.pdf.

⁹ *id.*

¹⁰ *id.*

¹¹ U.S. Energy Information Administration, *Annual Energy Outlook 2017* (2017), <https://www.eia.gov/outlooks/aeo/>

¹² White House, "Presidential Executive Order on Promoting Energy Independence and Economic Growth," <https://www.whitehouse.gov/the-press-office/2017/03/28/presidential-executive-order-promoting-energy-independence-and-economy-1>.

¹³ Devin Henry, *Trump Administration Ends Obama's Coal Leasing Freeze*, <http://thehill.com/policy/energy-environment/326375-interior-department-ends-obamas-coal-leasing-freeze>.

¹⁴ *id.*

¹⁵ *id.*

Section 1. Congressional Approval for Order by Secretary of the Interior Imposing a Moratorium on Federal Coal Leasing.

This legislation would require congressional approval of any order by the Secretary of Interior imposing a moratorium on federal coal leasing.

Administration Position

The administration position is unknown at this time.

Anticipated Amendments

None

Cost

A Congressional Budget Office cost estimate has not yet been completed for this bill.